

State Register

STATE OF MINNESOTA



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VOLUME 2, NUMBER 27

JANUARY 9, 1978

State Register

Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 26, dated January 2, 1978, the Office of the State Register will be making the following enhancements in the *State Register* format:

- Highlights on the front cover will be arranged under section headings, as they appear within the *State Register*, and will include page numbers. The Highlights section will also include a notation directing readers to a more complete table of contents within the issue.
- An introductory statement will be included for each section of the *State Register*. These statements will give a brief explanation of the kinds of material contained in the section; effective lead times for notices of hearing, rules, or executive orders; and cites to applicable statutes.
- A new key using strike outs to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules will indicate changes from original language to proposed new language. Strike outs and underlining in adopted rules will indicate changes from proposed to adopted language.
- Guide rule-numbers will be printed, when applicable, at the outside top of each page to indicate the beginning rule number on the left hand pages and the ending rule number on the right hand pages.
- Chapter and rule numbers that begin the text of an adopted or proposed rule will be printed in bold face.

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- (1) The rule or order was duly adopted, issued or promulgated;
- (2) The rule or order was duly filed with the Secretary of State and available for public inspection; and
- (3) The copy of the rule or order published in the *State Register* is a true copy of the original.

Judicial notice shall be taken of material published in the *State Register*.

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Rudy Perpich
Governor

Richard L. Brubacher
Commissioner
Department of Administration

Jeanne Boutang
Editor

James Clancy, Susan Erickson, Paul Hoffman, Robin PanLener
Editorial Staff

Cindy Peterson
Secretarial Staff

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EXECUTIVE ORDERS

Pursuant to Laws of 1977, ch. 305 § 2, subd. 1 to 3 and § 3, executive orders from the Governor, other than emergency executive orders, are effective upon 15 days after publication in the *State Register* and filing with the Secretary of State.

Emergency executive orders that are issued to protect a person's health or safety pursuant to Laws of 1977, ch. 305 § 2, subd. 2 and pursuant to Minn. Stat. §§ 12.31 to 12.32, and that are designated as emergency orders are effective immediately and are published in the *State Register* as soon as possible after issuance.

Executive Order No. 144A

Amending Executive Order 144 creating the Governor's Appointments Commission.

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this executive order:

Executive Order 144, dated March 29, 1977, creating the Governor's Appointments Commission, shall be amended as follows:

1. Paragraph (7) is changed to read: "The above procedure shall apply to all boards and commissions with substantial rule-making powers and other tasks as I may from time to time assign."

2. Paragraph (8) is changed to read: "The Commission shall include members appointed by me, serving at my will and pleasure, according to designation outlined in Paragraph (1), and shall receive assistance from persons as assigned from my office staff."

3. The enacting clause on page 3 is changed to the effect that Executive Order 144 shall remain in effect until superseded by legislation or rescinded by the proper authority, whichever is earlier.

This order shall be effective 15 days after publication in the *State Register* and shall remain in effect until rescinded by the proper authority or until superseding legislation is passed, whichever is earlier.

IN TESTIMONY WHEREOF, I hereunto set my hand on this eighth day of December, 1977.



EXECUTIVE ORDERS

Executive Order No. 163

Providing for referenda to determine inclusion of members of the Minneapolis Teachers Retirement Fund Association, St. Paul Teachers Retirement Fund Association and Minneapolis Municipal Employees Retirement Fund in the State Social Security Agreement.

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Minnesota Legislature, pursuant to Laws of 1977, Chapter 429, Section 47, has determined it necessary to conduct a referendum to decide whether members of the Minneapolis Teachers Retirement Fund Association be excluded from or included in the State Social Security Agreement, and,

WHEREAS, the Minnesota Legislature, pursuant to Laws of 1977, Chapter 429, Section 39, has determined it necessary to conduct a referendum to decide whether members of the St. Paul Teachers Retirement Fund Association be excluded from or included in the State Social Security Agreement, and,

WHEREAS, the Minnesota Legislature, pursuant to Laws of 1977, Chapter 399, Section 2, has determined it necessary to conduct a referendum to decide whether members of the Minneapolis Municipal Employees Retirement Fund be excluded from or included in the State Social Security Agreement, and,

WHEREAS, the Minnesota Legislature, pursuant to the above referenced acts, provides for the Governor to designate an agency or individual to supervise said referenda to be held after May 1, 1978;

NOW, THEREFORE, I order that:

1. The Commissioner of Personnel supervise each of the referenda specified by Laws of 1977, Chapter 399, Section 2; Chapter 429, Section 39; Chapter 429, Section 47, in the manner required by said act.

2. All of the above referenda shall be held after May 1, 1978, but before June 30, 1978.

3. Upon completion of each referendum, the Commissioner of Personnel shall certify to me the results thereof and shall also certify to me, if it be a fact, that the referendum was conducted in full compliance with all of the conditions and requirements of Section 218 (d) (6) (C) of the Social Security Act as amended.

This Order shall be effective 15 days following the date of publication in the State Register.

IN TESTIMONY WHEREOF, I hereunto set my hand this 19th day of December, 1977.



EXECUTIVE ORDERS

Emergency Executive Order No. 164

Providing for Assistance to Officials of Polk County, Minnesota

I, Rudy Perpich, Governor of the State of Minnesota, by the virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order;

WHEREAS, the Sheriff of Polk County has requested assistance in the search for stranded motorist and;

WHEREAS, weather conditions caused highway travel to be hazardous:

NOW THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on or after 8 December 1977, in the service of the state, such elements of the military forces of the state as required, and for such period of time necessary to insure the safety of our citizens.
2. Cost of subsistence, transportation and fuel, and pay and allowances of said individuals will be defrayed from the General Revenue of the state as provided for by Minnesota Statutes, Section 192.49; Subdivision 1, Section 192.51; and Section 192.52.

This order is effective retroactive to December 8, 1977, and shall be in force until such date as elements of the military forces of the state are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 19th day of December 1977.



RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to § 15.052, all rules, amendments to rules, or suspensions or repeals of rules become effective after all requirements described in Minn. Stat. § 15.0412, subd. 4 have been met and five working days after publication in the *State Register*, unless a later date is required or specified.

If the rule as adopted does not differ from the proposed rule as previously published in the *State Register*, a notice of adoption as proposed and a citation to the previous publication is considered sufficient as publication of the adopted rule, suspension or repeal.

If the rule as adopted differs from the proposed rule, the adopted rules or subdivisions thereof which differ from the proposed rule are published along with a citation to the *State Register* publication of the proposed rule.

Pursuant to Minn. Stat. § 15.0412, subd. 5, temporary rules take effect upon approval of the Attorney General. As soon as practicable, notice of the Attorney General's decision and the adopted temporary rule are published in the *State Register*, as provided for adopted rules. Temporary rules are effective for only 90 days and may be reissued for 90 days.

Metropolitan Council Review of Proposed Matters of Metropolitan Significance

The rules published at *State Register* Vol. 1, No. 32, p. 1210, February 15, 1977 (1 S.R. 1210), are adopted and are identical in every respect to their proposed form with the following amendments.

MC 1 Purpose and scope. The purpose of this Chapter is to implement Minn. Stat. § 473.173, as amended by Laws of 1976, ch. 321, § 2, which requires that the Metropolitan Council adopt and put into effect regulations establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance. This chapter shall govern the review of all proposed matters alleged to be of metropolitan significance initiated pursuant to the above statute. It is the purpose of these regulations to assure that the total effect of a proposed matter of metropolitan significance is considered and the orderly and economic development of the area is promoted, thereby protecting the health, safety, and welfare of the residents of the area. A metropolitan significance review will be completed by the Council within ninety (90) days following commencement unless ~~extended~~ suspended pursuant to these regulations.

MC 2 Standards for determining metropolitan significance.

A. Metropolitan System Effects

8. The issuance of a land use permit in an outlying community for a critical development which could reasonably be expected to lead to:

a. the premature expansion, construction or extension of use in excess of capacity of a public sewer facility or a metropolitan transportation facility, or

b. the disruption of commercial agricultural use ~~in a commercial agricultural area.~~

MC 3 Local comprehensive plans exemption.

B. Prior to the adoption of a local comprehensive plan in accordance with Laws of 1976, ch. 127, § 15, and on the receipt of a petition from a local government unit having a comprehensive plan adopted prior to January 1, ~~1976~~ 1977, or an outlying community, the Council shall re-evaluate that comprehensive plan or comprehensive sewer plans or zoning ordinances of outlying communities and assess ~~its~~ their adequacy as a substitute for the standards set forth in MC 2 A. The Council may initiate such a review on its motion absent the submission of a petition. Following re-evaluation, the Council may by resolution act to exempt proposed matters in all or part of that governmental unit from all or part of the metropolitan significance standards set forth in MC 2 A and ~~to~~ may apply the standards set forth in MC 3 A.

MC 4 Categories of exempt matters.

C. Emergency Matter. Any proposed matter which must be immediately undertaken to prevent or mitigate an emergency. ~~In determining~~ The existence of an emergency matter consideration shall be given to shall be determined based upon the probable consequences of the alleged emergency, the degree to which the alleged emergency circumstances were reasonably foreseeable, the availability of alternate means of alleviating the emergency, and the probable effect of the proposed matter in preventing or mitigating the emergency circumstances.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

RULES

MC 5

MC 5 Initiation.

A. Initiators

2.

c. A petition signed by the smaller of the following:

(1) at least five thousand (5,000) residents of the metropolitan area eighteen (18) years of age or older, or

(2) that number of residents of the metropolitan area eighteen (18) years of age or older of an affected local governmental unit which equals or exceeds fifty percent (50%) of ~~those~~ the number of persons who voted in that city or township during the most recently held state general election.

The petition shall designate at least one and no more than three persons to act as initiators on behalf of the petitioner.

MC 6 Commencement.

E. Person(s) requesting the initiation, the situs governmental unit, and the sponsor may appeal the Chairman's decision not to commence the significance review to the full Council by submitting a petition for review within seven (7) days following notification of the Chairman's determination. On appeal, the Council shall review the petition at a public hearing and may direct the issuance of an order for commencement or affirm the Chairman's decision.

F. Notice of the commencement of a significance review shall be served by the Council on the initiator, sponsor, situs governmental unit(s), adjacent governmental units, metropolitan commissions and the Metropolitan Land Use Advisory Committee within five (5) days following the determination to commence a significance review. The notice shall contain the order for commencement, the initiating documents, the information submission or a summary thereof, and an order to the sponsor ~~not to commence construction to suspend action on the proposed matter,~~ and a schedule for the metropolitan significance review. Notice that a significance review has been commenced shall be published in the next following issue of the Council bulletin and when appropriate in the *State Register*.

MC 7 Metropolitan significance review.

A. Significance Review Committee. Immediately following the commencement of a significance review, the Chairman shall appoint a significance review committee composed of not more than seven (7) or less than three (3) individuals all of whom are members of the Council or

the Metropolitan Land Use Advisory Committee. At least one Metropolitan Land Use Advisory Committee member and one Council member shall be appointed to all significance review committees. The Chairman shall on the appointment of a significance review committee designate one of its members to be the chairperson.

B. Delegation to Hearing Examiner. At any time prior to the commencement of the public hearing conducted pursuant to MC 7 I the significance review committee may delegate its responsibility for the conduct of relevant portions of the significance review, including the public hearing, to a hearing examiner. A hearing held by a hearing examiner shall be conducted in accordance with the Regulations of the State Office of Hearing Examiners for Contested Cases, Minn. Reg. HE 201 to 222, as amended, to the extent such regulations are not inconsistent with the times periods and procedures specified in these regulations. The report of any hearing examiner appointed by the significance review committee shall be transmitted to the significance review committee. The significance review committee shall review the report and may adopt the report as the significance review committee findings and recommendations or consider it in adopting committee findings and recommendations pursuant to MC 7 L. A request for delegation of responsibility to a hearing examiner may be made by any party.

J. Public Hearing Procedures. Public hearings held pursuant to MC 7 I shall be conducted in a manner designed to protect the rights of all persons and parties and ensure fundamental fairness. Public hearings conducted by a hearing examiner shall be governed by Minn. Reg. HE 201 to 222, as amended. The following procedures shall govern public hearings conducted by the significance review committee.

1. Only evidence formally presented to the significance review committee shall be considered in making the findings and recommendations of the significance review committee.

2. All evidence received shall be submitted under oath and made a part of the record.

3. All witnesses shall be subject to cross examination by the parties, the significance review committee and the Council.

4. The chairperson of the significance review committee may, on the request of any party or on his/her own initiative, limit the amount and scope of direct and cross examination and presentation.

5. All hearings shall be transcribed or tape-recorded.

6. The Chairperson of the Significance Review

RULES

Committee during the public hearing, shall establish a date for the close of the hearing record.

MC 9 Termination, suspension, time change.

B. Withdrawal of Review. At any time during the conduct of a significance review, the initiator or sponsor may petition the Council to withdraw the proposed matter from significance review, setting forth the reasons for such a request. The Council may, by resolution, grant such a petition and allow a proposed matter to be withdrawn from significance review only in the event ~~that the withdrawal does not adversely affect the right of any party of consent by all the parties.~~

MC 10 General review provisions.

B. Implementation Hold During Review Period. No person shall commence ~~construction or other activity site alteration~~ on a proposed matter after the commencement of a metropolitan significance review and until the Council's issuance of a final determination concerning the proposed matter or the expiration of the significance review period, whichever occurs first.

C. Letter of Interpretation. The Council may, by resolution, on the petition of any person prior to the commencement of a significance review, or on its own initiative at any time, issue a letter of interpretation with regard to the meaning and effect of any provision in these regulations as to any proposed matter. A letter of interpretation may determine that a matter is exempt pursuant to MC 3 or 4 or that a proposed matter is not of metropolitan significance because it would not result in the threshold generation required by MC 2 A 1 and 4 or that a proposed matter is not a critical development or ~~within the commercial agricultural area~~ would not cause the disruption or commercial agricultural use as required by standard MC 2A 8. A letter of interpretation may not determine the consistency or effect of a matter with regard to any metropolitan significance standard contained in MC 2 or adopt the remedies specified in MC 8 C. The Council shall determine whether to issue such a letter only following consideration of the request at a public hearing, notice of which shall be published in the Council bulletin at least thirty (30) days in advance of the meeting. The Council may request the submission of appropriate information from any person requesting a letter of interpretation, and from all other potentially interested persons. A letter of interpretation shall be binding on all persons and parties including the Council and may prevent the initiation of a metropolitan significance review.

MC 11

D. Review Coordination. The Council, at the request of the sponsor, shall may by order direct the coordination of a significance review with the review of a proposed matter being conducted pursuant to the environmental impact statement review process, Minn. Stat. § 116D.04, as amended, or the Critical Areas Act, Minn. Stat. ch. 116G, as amended. To this end, the Council may enter into a joint agreement with the Minnesota Environmental ~~Council Board~~ enabling the Council or joint panel to conduct a coordinated review of any proposed matter subject to a metropolitan significance review.

L. Judicial Review. ~~The judicial review of any final decision made pursuant to these regulations shall be conducted in accordance with the provisions of the Administrative Procedures Act, Minn. Stat. Section 15.0424 to 15.0426, as amended.~~ A final determination adopted by the Council pursuant to MC 8 B, a determination by the Council not to commence a significance review pursuant to MC 6 E and a letter of interpretation issued pursuant to MC 10 C which precludes a significance review constitute final decisions by the Council for purposes of judicial review.

MC 11 Definitions.

A.5. "Commercial-agricultural ~~area use~~" means the use of land area within the commercial agricultural territories delineated in the Development Framework Chapter of the Metropolitan Development Guide which the Council determines because of the predominant land use pattern and/or locally adopted plans and ordinances, is land used primarily for the growing and/or production of field crops, livestock, and livestock products for the production of income.

9. "Critical development" means the division of land into three (3) or more parcels or lots which if totally occupied by dwelling units would result in a density of greater than forty (40) units per square mile in any section, or portion thereof ~~in the rural service area~~ within one or more outlying communities, in any section within which a parcel or lot is located; or the construction or placement of dwelling units in previously platted or unplatted areas which would result in the same density or the construction or establishment of a residential, commercial, or industrial use for which a new national pollution discharge elimination system or state disposal system permit must be issued.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

RULES

MC 11

21. "Outlying communities" are:

In Anoka County

Andover
Bethel
Blaine
Burns Township
Centerville
Columbus Township
East Bethel
Ham Lake
Lino Lakes
Linwood Township
Oak Grove Township
Ramsey
St. Francis

In Carver County

all local government units

In Dakota County

Castle Rock Township
Coates
Douglas Township
Empire Township
Eureka Township

Farmington
Greenvale Township
Hampton
Hampton Township
Hastings
Inver Grove Heights
Lakeville
Marshan Township
Miesville
New Trier
Nininger Township
Randolph
Randolph Township
Ravenna Township
Rosemount
Sciota Township
Vermillion
Vermillion Township
Waterford Township

In Hennepin County

Brooklyn Park
Champlin
Corcoran

Dayton
Eden Prairie
Greenfield
Hassan Township
Hanover
Independence
Loretto
Maple Grove
Maple Plain
Medina
Minnetrista
Orono
Plymouth
Rockford
Rogers
St. Bonifacius

In Ramsey County

no local government units

In Scott County

all local government units

In Washington County

Afton
Bayport
Baytown Township
Cottage Grove
Denmark Township
Dellwood
Grant Township
Grey Cloud Township
Forest Lake
Forest Lake Township
Hugo
Lake Elmo
Lakeland
Lakeland Shores
Marine
May Township
New Scandia Township
Oakdale
Oak Park Heights
St. Croix Beach
St. Mary's Point
Stillwater
Stillwater Township
West Lakeland Township
Woodbury

The entire jurisdiction of the above listed local governmental units shall be considered an outlying community unless and until an exemption is specifically authorized in accordance with MC 3 B.

PROPOSED RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to 15.052, the *State Register* publishes notices of hearing on proposed new or amended rules, including the full text of the new or amended rules, including the full text of the new or amended rule proposed for adoption, at least 30 days before the date set for the hearing.

Pursuant to Minn. Stat. § 15.0412, subd. 4, an agency may, with approval of the chief hearing examiner, incorporate by reference into the text of a rule, provisions of federal law, or rule, or other material which are 3000 words or more in length or would require five or more pages of print in the *State Register* and which are conveniently available to interested persons.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend, or repeal a rule does not allow for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency Proposed Temporary Rules Governing the Homeownership Assistance Fund Program

Notice and Invitation for Public Comments

Under Minnesota law, members of the public are entitled to present comments on the following emergency regulation of the Minnesota Housing and Finance Agency for a period of 20 days after publication. Members of the public are invited to send their comments to the Minnesota Housing and Finance Agency, c/o Mr. Mark Korell, 480 Cedar Street, St. Paul, Minnesota 55101.

James Dlugosch
Executive Director

Rules as Proposed

Chapter Eleven: Homeownership Assistance Fund

MHFA 131 Eligible recipients of homeownership assistance fund loans. To qualify for a Homeownership Assistance Fund loan, a recipient must satisfy the requirements of MHFA 36 for a Limited-Unit Development Mortgage Loan. No recipient shall have held any ownership interest (either under fee title or by contract for deed) in any residential dwelling within two years prior to the date of the application for the Homeownership Assistance Fund loan.

MHFA 132 General requirements of homeownership assistance fund loans.

A. The property to be purchased with the assistance of a Homeownership Assistance Fund loan must be a newly-constructed or existing single family residential dwelling located within the State of Minnesota.

B. The purchase of the dwelling must be financed primarily through a Limited-Unit Development Mortgage Loan.

C. The recipient shall obtain and furnish to the Agency all information reasonably required to demonstrate the recipient's eligibility for both a Homeownership Assistance Fund loan and a Limited-Unit Development Mortgage Loan.

D. Each Homeownership Assistance Fund loan shall be secured by a second mortgage on the property to be purchased, which property must otherwise be free and clear of any lien, charge or encumbrance other than the Limited-Unit Development Mortgage.

E. A Homeownership Assistance Fund loan shall be deemed in default if the recipient defaults in the timely observance and performance of any condition or covenant of the Limited-Unit Development Mortgage Loan or of the Homeownership Assistance Fund loan, or sells, assigns, rents, or transfers the property, whether by deed, contract for deed, or otherwise. A transfer of the property to a surviving joint tenant, if any, by reason of the death of the recipient shall not constitute a default.

F. In the event of default, the Homeownership Assistance Fund loan shall become immediately due and payable in its entirety, at the option of the Agency, and shall be subject to interest from the date of default until the date of payment at that rate of interest which is applicable to the Limited-Unit Development Mortgage on the property.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

MHFA 133

MHFA 133 Homeownership assistance fund-monthly assistance. The Agency may provide eligible recipients interest-free Monthly Assistance loans in the form of monthly payments of a portion of the principal and interest installment due on the Limited-Unit Development Mortgage on qualifying property. Such payments shall not exceed \$75 per month and shall decrease by \$5 per month (or \$60 per year) each year. The maximum amount of Monthly Assistance to which a recipient is originally entitled shall be a function of the recipient's Adjusted Income and shall be determined by a schedule prepared by the Agency and published in the *State Register*. In preparing the schedule, the Agency shall consider the percentage of income which may reasonably be spent on mortgage payments, the interest rate charged for Limited-Unit Development Mortgage Loans, and general housing and construction costs in the State of Minnesota. Revisions of the schedule may be made from time to time and will be effective 30 days after publication in the *State Register*.

MHFA 134 Homeownership assistance fund-downpayment assistance. The Agency may provide interest-free Downpayment Assistance loans to eligible recipients who are determined, on basis of normal credit procedures, to lack the cash or land equity necessary to pay the required downpayment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the Downpayment Assistance loan shall equal the amount by which the sum of the downpayment, closing costs, expenses, and origination fees exceeds five percent of the purchase price of the dwelling, but shall not exceed the lesser of 50 percent of the downpayment or \$1,000.

MHFA 135 Repayment. Unless earlier repayment is required as the result of default, repayment of the aggregate amount of Monthly Assistance and Downpayment Assistance loans shall commence when the Monthly Assistance payments have declined to zero. Repayment shall be at the rate of \$10 per month for the first year and shall increase by \$10 per month (or \$120 per year) each year until the total Homeownership Assistance Fund loan has been repaid.

Department of Transportation

Proposed Temporary Rules Establishing a Program of State Grants for the Development of Local Bicycle Trails (Bikeways)

Notice of Request for Public Comment

Laws of 1977, Ch. 421, § 5, subd. 2 authorizes the Commissioner of Transportation to establish by rule pursuant to Minn. Stat. § 15.0412 (1977 Supplement) procedures for the administration of grants to units of government as defined in Section 2 of the Act for the betterment of public land and improvements needed for local bicycle trails.

Minn. Stat. § 15.0412 (1977 Supplement) requires that all interested persons or groups be allowed to submit for consideration their written comments relating to the proposed temporary rules set forth below. Comments should be addressed to the Minnesota Department of Transportation, Office of Environmental Affairs, 820 Transportation Building, Saint Paul, Minnesota 55155 (Attention: Ms. Terry Hoffman).

Matters submitted for consideration should be pertinent to the proposed rules. Any comments received by the Department of Transportation will become a part of the record of proceedings leading to the adopting of permanent rules. All comments must be received on or before January 30, 1978.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-5615).

Jim Harrington
Commissioner of Transportation

Rule as Proposed

14 MCAR 1.5041

A. Purpose. The purpose of these rules is to carry out the mandate of the legislature and to implement that mandate as set forth in Laws of 1977, ch. 421, § 5 subd. 2 and § 14 subd. 3.

B. Scope. The scope of these rules is intended to be confined within the framework of and consistent with Laws of 1977, Ch. 421.

C. Definitions. For purposes of these rules, the implementation thereof and ch. 421, § 5, subd. 2 and § 14,

PROPOSED RULES

subd. 3 the following terms shall have the meaning here given them.

1. Commissioner. The Commissioner of Transportation.

2. Department. Unless stated otherwise, "department" means the Department of Transportation of this State.

3. Bikeway. A structure so designed, constructed and maintained that a bicycle may be safely operated thereon so as to provide a bicycle travel corridor.

4. Bicycle. "Bicycle" means every device propelled solely by human power upon which a person or persons may ride, except scooters and similar devices and including any device generally recognized as a bicycle though equipped with two front or rear wheels.

5. Agency. "Agency" means a local unit of government as defined in Laws of 1977, ch. 421, § 2, subd. 1.

6. Construction. The physical development of a facility suitable for use as a bikeway.

7. Reconstruction. The physical redevelopment of an existing facility so as to make it suitable for use as a bikeway.

8. Matching Funds. Those funds required by law to be supplied by the grant requesting agency.

D. Grant Project Eligibility.

1. The grant project requests shall be consistent with the informational requirements of the department.

2. No project, the construction of which has already commenced or for which a construction contract has already been let, shall be eligible for a grant under this program.

3. There shall be an agreement by the agency to accept the maintenance and operational costs of the bikeway.

4. No grant project located on trunk highway rights-of-way will be eligible.

5. In addition to bikeway structure construction and/or reconstruction, bicycle safety improvement work, shelters, storage facilities and signs may be eligible for grant funding.

14 MCAR 1.5041

6. Project work may be carried out by award of a contract in accord with all applicable laws to the lowest responsible bidder (contract work) or by the applying agency itself (force account work) when the applying agency can demonstrate that such work procedure (force account) is in the best interests of the public, not contrary to any applicable law or ordinance and that there is established an acceptable accounting procedure so as the project costs may be audited.

7. The agency shall by resolution agree to the terms and conditions consistent with Law of 1977, ch. 421 as specified in the grant approval notification by the commissioner.

E. Establishment of Priority.

1. The commissioner using information furnished by the agency from the grant application document, departmental information systems, and other consultation groups as may be required by law, shall establish a statewide priority of bikeway construction and/or reconstruction.

2. In the metropolitan area as defined in Minn. Stat. § 473.121, the program shall be developed in accordance with plans and priorities jointly agreed upon between the Metropolitan Council and the department.

F. Local Units of Government-Matching Funds. The applying agency must supply at least 25 percent of the total construction costs of a grant project.

1. The value or cost of existing rights-of-way may not be used as matching funds.

2. The value or cost of any and all pre-construction work may not be used as matching funds.

G. Grant Conditions. If the commissioner determines that a grant application is eligible for funding, before any funds are made available to the applicant agency, the following conditions shall be met:

1. A resolution shall be passed by the agency agreeing to the acceptance of the grant in accord with the department's requirements.

2. A guarantee shall be made by the agency that matching funds are available and will continue to be available for its share of the cost of the project until the project is completed.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

PROPOSED RULES

3. The agency shall agree to continue operation and maintenance of the project after its completion for the benefit of the public.

The department may impose other conditions consistent with applicable laws on a grant in addition to those specified above.

H. Distribution of Grants. Grants shall be distributed by priority until the bikeway funds are depleted. To those requesting agencies for whom final applications have been approved the department will submit a project agreement to be executed between the agency and the department. Upon completion of the executed project agreement, the funds will be submitted to the requesting agency.

I. Accounting. The agency shall maintain a separate ac-

counting of the project costs and shall submit documentation as required by the department to verify the costs and compliance with the project agreement and other requirements.

J. Retention and Use of Project. Facilities developed by bikeway grants shall be retained for public transportation use.

K. Responsibilities of recipient agency. A recipient agency of a bikeway grant shall comply with all existing or subsequent state laws and rules that apply to the project.

L. Any agreement, obligation or contract entered into pursuant to this rule shall remain in full force and effect, notwithstanding expiration of this rule.

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Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, when, in preparing to propose rules, an agency seeks to obtain information or opinion from sources outside of the agency, a notice of intent to solicit such information or opinion is published in the *State Register* and interested persons are afforded an opportunity to submit data and views on the subject.

The *State Register* also contains any other official notice requested to be published by an agency, pursuant to Laws of 1977, ch. 305 § 3.

Environmental Quality Board

Report Available on Health and Safety Effects of Transmission Lines

A report published by the Minnesota Department of Public Health for the Minnesota Environmental Quality Board, "Public Health and Safety Effects of High Voltage Overhead Transmission Lines," will be available at the following locations after January 15, 1978:

Libraries: State Archives, Dept. of Education — 117 University, Hill Reference Library, Historical Library, State Law Library, Crookston Branch University of Minnesota, Duluth Branch University of Minnesota, Morris Branch University of Minnesota, University of Minnesota Library, University of Minnesota Law Library, Duluth Public Library, Minneapolis Public Library, St. Paul Public Library, and the Legislative Library.

State Colleges: Bemidji State College, Mankato State College, Marshall Southwest State College, Moorhead State College, St. Cloud State College, and Winona State College.

Junior Colleges: Anoka Ramsey, Austin, Brainerd, Ely, Fergus Falls, Hibbing, Inver Grove Heights, Itasca Lakewood Junior College, Mesabi, Metropolitan, Normandale, Rainy River, North Hennepin, Rochester, Thief River Falls, Willmar, and Worthington.

Environmental Quality Board Depository Libraries in: Crookston, Bemidji, Duluth, Fergus Falls, Pine River, Willmar, Montevideo, Cambridge, St. Cloud, Marshall, Mankato, Rochester, and Minneapolis.

For more information about this report contact Charlene Kanninen, 612/296-5552, Department of Public Health, Environmental Health Division, 717 Delaware, Minneapolis, Mn. 55440.

Department of Health Notice of Filing of Application

On December 15, 1977, the City of Cokato Volunteer Am-

balance Association, filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) emergency/non-emergency land ambulance service with a base of operation in Cokato, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statutes.

Department of Health Notice of Filing of Application

On December 5, 1977, Martin Auto Livery, Inc., bba Smith Ambulance service, filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) emergency/non-emergency land ambulance service with a base of operation in Apple Valley, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license

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application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Department of Health Notice of Filing of Application

On December 15, 1977, Pine County, filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) emergency land ambulance service with a base of operation in Hinckley, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Housing Finance Agency Notice of Innovative Housing Loan Program

Following are the guidelines for the Innovative Housing Loan Program adopted by the members of the Minnesota Housing Finance Agency at their December 22 meeting. This program has been established through a \$500,000 appropriation of the 1977 Minnesota State Legislature to encourage innovations in housing construction, design, marketing, financing, etc.

The 1977 Minnesota State Legislature passed a bill (H.F. 875) which appropriated \$500,000 to be used for encouraging innovations in the development or rehabilitation of single or multifamily residential housing. The program

provides financing to non-profit organizations throughout the state for housing projects involving innovations in construction method, materials, equipment, design, marketing, financing, and other areas. Careful monitoring and evaluation will be conducted in order to maximize the potential for funded projects to act as models for other similar efforts.

Applications for Innovative Housing Loans

To be eligible to be selected for an Innovative Housing Loan, to be made from the fund established pursuant to Minn. Stat. § 462A.05, subd. 18 and 562A.21, subd. 9, each applicant must satisfy the following requirements:

- (a) The applicant must be a non-profit entity. Non-profit entities are defined in MHFA rules Section 2(g) and include (1) housing and redevelopment authorities and (2) partnerships, joint ventures, corporations and associations not operating for profit and meeting the requirements stipulated in the rule. Regional Development Commissions and city or county units of government are not eligible to apply.
- (b) The project must be located in the State of Minnesota.
- (c) Satisfactory evidence must be presented of the applicant's ability to organize and to complete the project for which the Innovative Housing Loan is requested.
- (d) The project must involve the construction or rehabilitation of a limited-unit development, but must be designed for, and intended for occupancy primarily by, persons and families of low or moderate income.
- (e) Satisfactory evidence must be presented that a loan is not otherwise available from private lenders upon reasonable terms and conditions.
- (f) Satisfactory evidence must be presented that the applicant has or will have the ability to repay the Innovative Housing Loan and to obtain other financing, if needed, at the expiration of the term of the loan.
- (g) The project must be innovative; that is, it must involve the use of equipment or materials or of a method of design, construction, marketing or financing which is not generally in use in the housing industry or of which the public is not generally aware.

Selection Criteria for Innovative Housing Loans

In determining whether or not to accept applications from non-profit entities for Innovative Housing Loans, the Members shall examine the following facts and make their determinations thereon:

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(a) The extent to which the project will conserve energy, result in a more efficient use of energy, or employ a source of energy not generally utilized by the housing industry.

(b) The extent to which the innovation is likely to be capable of widespread, practical and economic use.

(c) The geographic location of the proposed project within the State of Minnesota, taking into account other projects theretofore approved for Innovative Housing Loans.

(d) The period of time required to complete the project.

(e) The extent to which the project duplicates, or is in conflict with, other innovations in housing design, methods or materials.

(f) The extent to which the innovation will be capable of being monitored to demonstrate its efficiency, economy, acceptability, effectiveness, and durability.

(g) The extent to which the innovation will be capable of and available for demonstration.

(h) The amount and term of the requested Innovative Housing Loan, as compared to the total resources of the Agency available for such Loans.

(i) Whether the applicable Regional Development Commission has determined that the project is consistent with regional plans and policies.

Selection of Proposals

Proposals received will be rated by a panel of reviewers from MHFA staff. The Executive Director and a committee of the MHFA Board of Directors will then evaluate and compare eligible proposals based on their consistency with program selection criteria and will select applications for funding. While proposals will be considered at the time of receipt, there will be no cutoff for submission of applications. Applications will be considered on their individual merits and may be funded at any time when adequate funds are available.

Loan Terms

Interest Rate: Loans will be interest-free, although the Agency may charge fees to defray its expenses.

Terms: Loan terms will generally be set for two years or less, depending upon the requirements of the particular project. Loans may be renewed at the discretion of the

Agency; however, the Agency may charge up to 8% interest on renewed loans.

Security: Security or collateral agreements will be specified by the Agency on a loan-by-loan basis where reasonably necessary and practicable.

Department of Public Welfare

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Public Welfare is considering a proposed DPW Rule 162, Allocation of Title XX funds to County Welfare and Human Service Boards. This proposed rule will govern the Department of Public Welfare's formula for the annual allocation of Federal Title XX funds available to County Welfare Boards and Human Service Boards.

The Department is interested in suggestions regarding factors and variables to be included in the formula.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Gary Haselhuhn
Director, Social Services
Department of Public Welfare
Centennial Office Building, 4th Floor
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2307.

All statements of information and comment must be received by January 27, 1978. Any written material received by the Department shall become part of the hearing record.

State Arts Board

Notice of Intent to Solicit Outside Opinion on Additions, Deletions and Changes in Arts Board Rules and Regulations

Notice is hereby given that the Minnesota State Arts Board has begun consideration of proposed changes, additions and deletions of current Arts Board rules and regulations. In fact, work on existing rules and regulations has already begun. In order to determine the effectiveness of current

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rules and the nature and utility of new rules, the Minnesota State Arts Board requests comments and information from all interested individuals or organizations concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comments may be made orally or in writing. Please address these comments to:

Minnesota State Arts Board
314 Clifton Avenue
Minneapolis, Minnesota 55403
(612) 874-1335

Oral statements of information and comments will be received during regular business hours (8:30 a.m.-4:30 p.m.) and in person at the address above.

Drafts of proposed rules and program information will be

available in the Minnesota State Arts Board newsletter the *Arts Board* on February 10, 1978. Initial information and comments will be accepted until March 6, 1978.

No final action on any changes in the rules will be taken until after public hearings are conducted according to the rule-making provisions of Minn. Stat. ch. 15. Notice of these hearings will be published in the *State Register*. All statements of information and comments will be received until the hearing record closes.

The proposed rules, if adopted, would regulate services provided by the Board, application review procedures, criteria for review and other general eligibility requirements.

Stephen Sell
Executive Director

January 4, 1978

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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